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09/442,343	11/17/1999	NICKIE C. TURNER	SCHEPP-TURNE	5705

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EXAMINER

KAPADIA, MILAN S

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/442,343

Applicant(s)

TURNER ET AL.

Examiner

Milan S Kapadia

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment filed 14 June 2003.

Claims 1-20 are pending. Claims 1, 8, and 16 have been amended.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshfeghi et al (6,236,972) in view of Takeo (6,289,115) and further in view of Rozen et al. (6,073,106).

(A) As per claim 1, Moshfeghi teaches a patient information system comprising:  
a computer server having a patient information forum for at least one patient, and  
each said patient information forum containing information regarding an individual patient (Moshfeghi; figure 1 and col. 2, lines 43-57; the examiner interprets the "personalized web server" as the "server" and interprets the "CPR" as a from of "information regarding an individual patient.");

Art Unit: 3626

a publicly accessible computer input device networked to said computer server (Moshfeghi; figure 1; the examiner interprets the "client" as the "publicly accessible computer input device."); and

a security subsystem operably positioned between said patient information forum and said input device (Moshfeghi; col. 2, lines 43-46; the examiner interprets system providing "access control for particular patient" as the "security subsystem.")

Moshfeghi fails to expressly teach a publicly accessible computer output device networked to said computer server.. However, this feature is old and well known in the art, as evidenced by Takeo's teachings with regards to a publicly accessible computer output device networked to a computer server (Takeo; figure 1 and col. 5, lines 9-23; the examiner interprets the "laser printer" as a form of "publicly accessible computer output device.") It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Moshfeghi with Takeo's teaching with regards to a publicly accessible computer output device networked to a computer server, with the motivation of improving efficiency in hospital organizations by providing a reliable source such as a laser printer for outputting data (Takeo; col. 1, lines 10-17).

The combined system of Moshfeghi and Takeo collectively fail to expressly teach the security subsystem is at least partially patient controlled and permitting access to said patient information forum free of identity verification by said computer server to at least one person selected by said individual patient. However, this feature is old and well known in the art, as evidenced by Rozen's teachings with regards to a security

Art Unit: 3626

subsystem that is at least partially patient controlled and permitting access to said patient information forum free of identity verification by said computer server to at least one person selected by said individual patient (Rozen; abstract, col. 4, line 33-col. 5, line 11, and col. 5, lines 43-47) It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Moshfeghi and Takeo with Rozen's teaching with regards to this limitation, with the motivation of providing the patient control over who has access to the patient's data (Rozen; col. 4, line 66-col. 5, line 11).

(B) As per claim 2, Moshfeghi teaches wherein said patient information forum is subdivided into a plurality of levels, and a different portion of said patient information forum being available at different ones of said plurality of levels (Moshfeghi; col. 3, lines 9-18); and  
said security subsystem being operable to limit access to said patient information forum to a predetermined group of persons, and limit access to different ones of said levels to subsets of said predetermined group of persons (Moshfeghi; col. 2, line 64-col. 3, line 8, col. 3, lines 59-67 and figure 2).

(C) As per claim 3, Moshfeghi teaches wherein said predetermined group of persons includes third party individuals identified by a particular patient to which said patient

Art Unit: 3626

information forum relates, and said third party individuals include relatives of said particular patient (Moshfeghi; col. 2, line 63-col. 3, line 8; it is respectfully submitted, that a relative is a form of "visitor.")

(D) As per claim 4, Moshfeghi teaches wherein a particular patient has an ailment; and said patient information forum for said particular patient includes a link to a database having information regarding said ailment (Moshfeghi; figure 1 and col. 2, lines 50-57).

(E) As per claim 6, Moshfeghi teaches wherein said computer server is an Internet server; and said patient information system has an Internet address (Moshfeghi; col. 2, lines 26-42; it is respectfully submitted, that a server, that supports http and provides web pages, is an Internet server. It is also respectfully submitted, that since Moshfeghi teaches IP addressing (Moshfeghi; col. 4, lines 21-23), the patient system does have an Internet address).

(F) As per claim 7, Moshfeghi teaches wherein said security subsystem includes an assignment of passwords to a predetermined group of persons that are approved for access to said patient information forum of a particular patient (Moshfeghi; figure 2 and col. 6, lines 49-58).

(G) Method claim 8 repeats the subject matter of system claims 1 and 2, as a series

of steps rather than a set of apparatus elements. As the underlying structure of claims 1 and 2 have been shown to be fully disclosed by the teachings of Moshfeghi, Takeo, and Evans in the above rejections of claims 1 and 2, it is readily apparent that the system disclosed by Moshfeghi, Takeo, and Evans include the steps to perform these functions. As such, these limitations are rejected for the same reasons given above for system claims 1 and 2, and incorporated herein.

(H) Method claim 9 repeats the subject matter of system claim 2, as a series of steps rather than a set of apparatus elements. As the underlying structure of claim 2 has been shown to be fully disclosed by the teachings of Moshfeghi, Takeo, and Evans in the above rejections of claim 2, it is readily apparent that the system disclosed by Moshfeghi, Takeo, and Evans include the steps to perform these functions. As such, these limitations are rejected for the same reasons given above for system claim 2, and incorporated herein.

(I) Method claim 10 repeats the subject matter of system claim 7, as a series of steps rather than a set of apparatus elements. As the underlying structure of claim 7 has been shown to be fully disclosed by the teachings of Moshfeghi, Takeo, and Evans in the above rejections of claim 7, it is readily apparent that the system disclosed by Moshfeghi, Takeo, and Evans include the steps to perform these functions. As such, these limitations are rejected for the same reasons given above for system claim 7, and incorporated herein.

(J) Method claim 12 repeats the subject matter of system claim 4, as a series of steps rather than a set of apparatus elements. As the underlying structure of claim 4 has been shown to be fully disclosed by the teachings of Moshfeghi, Takeo, and Evans in the above rejections of claim 4, it is readily apparent that the system disclosed by Moshfeghi, Takeo, and Evans include the steps to perform these functions. As such, these limitations are rejected for the same reasons given above for system claim 4, and incorporated herein.

(K) Method claim 13 repeats the subject matter of system claim 6, as a series of steps rather than a set of apparatus elements. As the underlying structure of claim 6 has been shown to be fully disclosed by the teachings of Moshfeghi, Takeo, and Evans in the above rejections of claim 6, it is readily apparent that the system disclosed by Moshfeghi, Takeo, and Evans include the steps to perform these functions. As such, these limitations are rejected for the same reasons given above for system claim 6, and incorporated herein.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moshfeghi et al (6,236,972), Takeo (6,289,115), and Rozen et al. (6,073,106) as applied to 8 above and further in view of Rapport et al. (6,192,112).

(A) As per claim 14, the combined system of Moshfeghi, Takeo, and Rozen



Art Unit: 3626

collectively fail to expressly teach networking a special needs computer to said computer server; and providing said special needs computer with at least one of a visually impaired computer interface, a touchscreen computer interface and a voice recognition computer interface. However, this feature is old and well known in the art, as evidenced by Rapport's teachings with regards to providing a medical information system having a voice recognition computer interface (Rapport; abstract, figure 2, and col. 19, line 39-col. 20, line 11). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to network the server taught by Moshfeghi, Takeo, and Rozen to Rapport's computer, with the motivation of providing customized solutions to accommodate the different needs of different types of users, such as the visually challenged (Rapport; col. 2, lines 15-20 and 29-32). Insofar as applicant's claim recites "at least one," it is irrelevant as to whether the applied prior art discloses a "visually impaired computer interface" or a "touch screen computer interface"

4. Claims 5, 11, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshfeghi et al (6,236,972), Takeo (6,289,115), and Rozen et al. (6,073,106) as applied to 1 and 8 above and further in view of Herz et al. (5,754,939).

(A) As per claim 5, the combined system of Moshfeghi, Takeo, and Rozen collectively fail to expressly teach wherein said patient information forum includes a location for dialogue. However, this feature is old and well known in the art, as

evidenced by Herz's teachings with regards to a location for dialogue (Herz; col. 73, lines 4-49). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to incorporate the location for dialogue, as taught by Herz, within said patient information forum, with the motivation of enabling users of the system to discuss almost any subject imaginable, including the status of patients (Herz; col. 73, lines 17-23).

(B) Method claim 11 repeats the subject matter of system claim 5, as a series of steps rather than a set of apparatus elements. As the underlying structure of claim 5 has been shown to be fully disclosed by the teachings of Moshfeghi, Takeo, Evans, and Herz in the above rejections of claim 5, it is readily apparent that the system disclosed by Moshfeghi, Takeo, and Herz include the steps to perform these functions. As such, these limitations are rejected for the same reasons given above for system claim 5, and incorporated herein.

(C) As per claim 15, the combined system of Moshfeghi, Takeo, and Rozen collectively fail to expressly teach providing said patient information forum with a bulletin board location having new information added to said patient information forum. However, this feature is old and well known in the art, as evidenced by Herz's teachings with regards to a bulletin board location (Herz; col. 73, lines 4-49). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to incorporate the bulletin board location, as taught by

Art Unit: 3626

Herz, within said patient information forum , with the motivation of enabling users of the system to discuss almost any subject imaginable, including the status of patients (Herz; col. 73, lines 17-23).

(D) Claim 16 differs from the features of claim 1 and 15 by reciting "a software program." As per this limitation, Moshfeghi teaches the server uses scripts (Moshfeghi; figure 1 and col. 2, lines 43-57). The remaining features of claim 16 repeat features of claim 1 and 15 and are therefore rejected for the same reasons given above in the rejections of claims 1 and 15 and incorporated herein.

(E) As per claim 17, Moshfeghi teaches means for requesting a password and means for evaluating a password (Moshfeghi; figure 2 and col. 6, lines 49-55).

(F) Claim 18 repeats the features of claim 5 and is therefore rejected for the same reasons given above in the rejection of claim 5 and incorporated herein.

(G) Claim 19 repeats the features of claim 4 and is therefore rejected for the same reasons given above in the rejection of claim 4 and incorporated herein.

(H) Claim 20 repeats the features of claim 2 and is therefore rejected for the same reasons given above in the rejection of claim 2 and incorporated herein.

***Response to Arguments***

2. Applicant's arguments with respect to amended claim 1, 8, and 16 have been considered but are moot in view of the new ground(s) of rejection.

(A) At pages 3-6 of the 6/4/03 communication, Applicant argues each of the applied references individually.

In response, the Examiner respectfully submits that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In particular, the teachings that Applicant argues are missing from the Moshfeghi and Takeo reference are clearly disclosed in the respective teachings of Rozen, when considered collectively with that of Moshfeghi and Takeo, as discussed in detail within a prior Office Action (paper number 5) and in the preceding rejections, and incorporated herein.

Further, the features newly added and entered in the amendment filed 6/4/03, they have been shown to be fully disclosed by or obvious in view of the collective teachings of Moshfeghi, Takeo, and Rozen, as discussed above in detail within the preceding sections of the present Office Action.

In addition, it is respectfully submitted that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the

Art Unit: 3626

structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches an individualized patient electronic medical records system (6,523,009); a medical record management system and process with improved workflow features (5,974,389); and a method and apparatus for electronically accessing and distributing personal health care information and services in hospitals and homes (5,867,821).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Thursday, 8:30 A.M. to 6:00 P.M. In addition the examiner can be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-


Art Unit: 3626

305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
mk

August 8, 2003

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER  
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